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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,955	10/17/2001	Reimund Stingl	(Z) 00091	8418
7590 08/11/2005			EXAMINER	
M. Robert Kestenbaum 11011 Bermuda Dunes NE Albuquerque, NM 87111			NGUYEN, THONG Q	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HA

Office Action Summary	Application No. 09/981,955	Applicant(s) STINGL, REIMUND	
	Examiner Thong Q. Nguyen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/17/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on June 11, 2003 and the Petition filed on March 16, 2005. It is noted that in the mentioned amendment, applicant has made amendments to claim 1.

Election/Restrictions

2. Applicant's election with traverse of species II in the reply filed on June 11, 2003 is acknowledged. The traversal is on the ground(s) that the amendment to claim 1 to change the status of claim 1 from an independent claim to a dependent claim of claim 5 which is grouped into the elected species. After further review of the claims, the Examiner has agreed with the applicant's statement and thus all pending claims 1-10 are examined in this Office action.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

4. The drawings contained two sheets of figures 1-4 were received on 10/17/2001. These drawings are objected by the Examiner for the following reasons.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature related to the plurality of light sources distributed at a circumference of the crosshair plate as

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recited in claims 2 and 3 must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification has not provided a proper antecedent basis for the arrangement of a plurality of light sources distributed at a circumference of the crosshair plate as recited in claims 2 and 3.

Claim Objections

8. Claims 1 and 5 are objected to because of the following informalities.

Appropriate correction is required.

a) In claim 5: on each of lines 4 and 5, the term --plate-- should be added after "crosshair". Applicant should note that the claim recites a crosshair plate as can be seen on line 2 of the claim. The change as suggested will make the claim comply with the requirement of 35 USC 112, second paragraph because the claim has never provided an antecedent basis for the feature "said crosshair" recited on each of lines 4 and 5.

b) In claim 1, the phrase thereof "comprising: a crosshair plate having a target marking, at least one light source emitting radiation that illuminates said target marking," should be deleted because the mentioned information/features are already recited in the base claim 1, lines 2-3.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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10. Claims 2-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 2 and 3 are rejected under 35 USC 112, first paragraph because the specification has not disclosed an arrangement of an illuminating system having a plurality of light sources distributed at a circumference around a crosshair plate and a light guide arranged circumferentially to the crosshair plate as claimed.

Applicant is respectfully invited to review the specification, in particular, pages 2 and 4, which discloses an illuminating device having a light source 23 in the form of a diode 25 and a light guide 15. The specification has disclosed that the light guide 15 is coaxially surrounded the crosshair plate 11 and the holder 13 of the crosshair plate 11 has a bevel 21 in which the light source 23 is located. Based on such structure, the illumination system cannot have a plurality of light sources distributed at a circumference around a crosshair plate as claimed.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Troescher, Jr. (U.S. Patent No. 4,977,677).

Troesch, Jr. discloses a sighting device for use with a bow. The device as described in column 2 and shown in figs. 2-3 comprises a lens plate (28) having target marking (29), three light sources (52) disposed in a circumference of the lens plate and a light guide (26) arranged circumferentially to the lens plate and in contact to the circumferential surface of the lens plate.

13. Claims 1-6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fenderl (U.S. Patent No. 1,529,643).

Fenderl discloses a crosshair plate for use in an optical device. See columns 1-3. The crosshair plate as described in column 3, lines 33-48 and shown in figure 1, the crosshair plate comprises a lens (1) having one of its faces provided with raised ridges 2 arranged at right angles to each other and intersected the axis of the lens. The periphery 3 of the lens is provided with a ring 4 of the self-luminous substance and a channel-shaped border ring 5 encloses the substance. The light from the substance is reflected by the border ring on to the markings 2 and will enable the markings to be seen without permitting the glaring effect of the luminous substance to an observer. It is noted that the combination of the ring 4 contained the luminous substance and the reflector ring 5 in combination acts as a light guide which is arranged circumferentially to the crosshair plate wherein the ring 4 is in contact to the periphery of the crosshair plate. The luminous substance comprises a numerous luminous particles and arranged in the ring so that the light emitted from the luminous particles will reflect from a reflector ring

and illuminating the markings in a plurality of directions and over a circumference of the crosshair plate.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fenderl in view of Saegmuller (U.S. Patent No. 804,624).

While Fenderl disclose a crosshair plate for use in an optical device for the purpose of providing a marking target to a user, see column 3, lines 6-13, he does not clearly disclose that the optical device having his crosshair plate comprises an objective lens and an eyepiece as claimed in present claim 10. However, the use of a crosshair plate in an optical device such as a sighting telescope is well known to one skilled in the art as can be seen in the sighting provided by Saegmuller. In particular, in columns 1-2 and figures 1-3, Saegmuller discloses a sighting comprises an objective lens system (B), a crosshair plate (I) and an eyepiece (F). Thus, it would have been obvious to one skilled in the art to utilize the crosshair plate provided by Fenderl in a sighting having an objective lens and an eyepiece as suggested by Saegmuller for the purpose of providing an illuminated marking target to a user of the sighting.

16. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fenderl in view of Troescher, Jr.

While Fenderl disclose a crosshair plate for use in an optical device for the purpose of providing a marking target to a user wherein a combination of the ring contained the luminous substance and a reflector ring 5 acts as a light guide which is arranged circumferentially to the crosshair plate, see column 3, lines 33-48, he does not clearly disclose a radiation shield on the circumference of the crosshair plate in a region in which the radiation is coupled-in the light guide as claimed. However, such a feature is inherent from the structure of the lens plate and the ring contained luminous substance as provided by Fenderl. The support for that conclusion is found in the structure of the device wherein light from the luminous substance in the ring 4 is reflected by the reflector 5 to illuminate the markings. Fenderl does not disclose that the light from the luminous substance are directly entered into the lens plate through the circumferential surface of the lens plate (1). If it is not inherent then the use of a combination of layers/coatings including a black layer/coating for coating the surface of a lens plate supporting a crosshair is disclosed in the art as can be seen in the sighting provided by Troescher, Jr. In particular, Troescher, Jr. discloses a sighting device for use with a bow. The device as described in column 2 and shown in figs. 2-3 comprises a lens plate (28) having target marking (29), three light sources (52) disposed in a circumference of the lens plate and a light guide (26) arranged circumferentially to the lens plate and in contact to the circumferential surface of the lens plate. In

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column 2, lines 25-46, Troescher, Jr. discloses the use of two coats of paint including one black coat on the surface of the case for the purpose of increasing the ability of reflection. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the sighting provided by Fenderl by using a set of coatings including a black coating as suggested by Troescher, Jr. at the circumference surface of the lens supporting a crosshair for the purpose of increasing the reflectivity of light used to illuminate the markings.

Conclusion

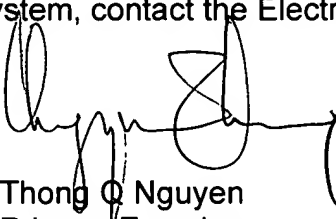
17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
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